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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 COSTCO WHOLESALE
10 CORPORATION, a Washington
11 corporation,
12 Plaintiff,
13 v.
14 ARROWOOD INDEMNITY
15 COMPANY, a North Carolina company,
16 Defendant.

No. 2:17-CV-01212-SAB

**ORDER DENYING
DEFENDANT'S SECOND
MOTION FOR SUMMARY
JUDGMENT**

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18 Before the Court is Defendant Arrowood's Second Motion for Summary
19 Judgment, ECF No. 144. The motion was considered without oral argument. In this
20 motion, Arrowood argues that it is entitled to summary judgment and that Judge
21 Lasnik did not address the claims in his Order on the parties' cross-motions for
22 summary judgment, ECF No. 126. Arrowood requests that the Court enter
23 summary judgment in its favor on Costco's breach of contract claim, as well as its
24 tort and statutory claims. In response, Costco argues that the motion should be
25 denied because the motion raises issues already considered and rejected by the
26 Court without showing an intervening change in law, newly discovered evidence,
27 or a risk of fundamental unfairness or injustice. Having reviewed the record, the
28 parties' briefing, and the relevant caselaw, the Court denies Arrowood's motion.

**ORDER DENYING DEFENDANT'S SECOND MOTION FOR SUMMARY
JUDGMENT * 1**

1 The Court first considers whether it should review Arrowood's motion on
2 the merits. The Federal Rules of Civil Procedure do not limit the number of
3 summary judgment motions a party may file in a single action. Fed. R. Civ. P.
4 56(b) (stating that "[u]nless a different time is set by local rule or the court orders
5 otherwise, a party may file a motion for summary judgment at any time until 30
6 days after the close of all discovery"). Indeed, district courts have discretion to
7 permit successive motions for summary judgment. *Hoffman v. Tonnemacher*, 593
8 F.3d 908, 910 (9th Cir. 2010). A district court may also grant a motion for
9 summary judgment even after denying an earlier motion for summary judgment.
10 *Id.* at 911. Allowing parties to file a second motion for summary judgment is
11 logical, and fosters the "just, speedy, and inexpensive resolution of suits." *Id.*
12 (quoting Fed. R. Civ. P. 1). However, district courts also have discretion to "weed
13 out frivolous or simply repetitive motions." *Knox v. Sw. Airlines*, 124 F.3d 1103,
14 1106 (9th Cir. 1997). In exercising its discretion, a district court may consider the
15 following factors: (1) an intervening change in controlling law; (2) the availability
16 of new evidence or an expanded factual record; and (3) the need to correct a clear
17 error or prevent manifest injustice." *Kische USA LLC v. Simsek*, No. 16-CV-0168-
18 JLR, 2017 WL 5881322 at *3 (W.D. Wash. Nov. 29, 2017) (allowing a second
19 motion on summary judgment in the interest of judicial efficiency where the
20 second motion raised different claims than the first motion).

21 Here, Arrowood argues that its motion raises two arguments that the Court's
22 prior Order—in its eyes—did not squarely address. However, and as Costco
23 argues, the Court finds that the arguments Arrowood raises now were already
24 presented and rejected. *See Knox*, 124 F.3d at 1106. Arrowood does not introduce
25 new evidence or an intervening change in controlling law that would have resulted
26 in a different outcome, nor does it show that the Court's prior Order was clear error
27 or has caused manifest injustice. *See Simsek*, 2017 WL 5881322, at *3. Indeed, it
28 appears that Arrowood is seemingly trying to take advantage of the fact that a new

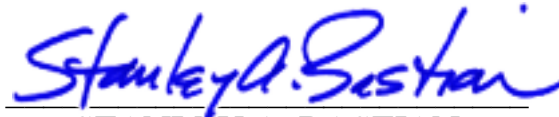
1 judge was appointed to this case since the first summary judgment order to secure
2 a more favorable judgment. That is not the case. The motion is therefore denied.

3 Accordingly, **IT IS ORDERED:**

4 1. Defendant's Second Motion for Summary Judgment, ECF No. 144, is
5 **DENIED.**

6 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
7 this Order and to provide copies to counsel.

8 **DATED** this 24th day of September 2020.

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11 STANLEY A. BASTIAN

12 United States District Judge
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